

§ 286.210

of the reports are subject to validation by us.

(1) For a disaggregated data report, “a complete and accurate report” means that:

(i) The reported data accurately reflect information available to the Tribal TANF grantee in case records, financial records, and automated data systems;

(ii) The data are free from computational errors and are internally consistent (*e.g.*, items that should add to totals do so);

(iii) The Tribal TANF grantee reports data for all required elements (*i.e.*, no data are missing);

(iv) The Tribal TANF grantee provides data on all families; or

(v) If the Tribal TANF grantee opts to use sampling, the Tribal TANF grantee reports data on all families selected in a sample that meets the specification and procedures in the TANF Sampling Manual (except for families listed in error); and

(vi) Where estimates are necessary (*e.g.*, some types of assistance may require cost estimates), the Tribal TANF grantee uses reasonable methods to develop these estimates.

(2) For an aggregated data report, “a complete and accurate report” means that:

(i) The reported data accurately reflect information available to the Tribal TANF grantee in case records, financial records, and automated data systems;

(ii) The data are free from computational errors and are internally consistent (*e.g.*, items that should add to totals do so);

(iii) The Tribal TANF grantee reports data on all applicable elements; and

(iv) Monthly totals are unduplicated counts for all families (*e.g.*, the number of families and the number of out-of-wedlock births are unduplicated counts).

(3) For the Tribal TANF Financial Report, a “complete and accurate report” means that:

(i) The reported data accurately reflect information available to the Tribal TANF grantee in case records, financial records, and automated data systems;

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(ii) The data are free from computational errors and are internally consistent (*e.g.*, items that should add to totals do so);

(iii) The Tribal TANF grantee reports data on all applicable elements; and

(iv) All expenditures have been made in accordance with 45 CFR part 92 and all relevant OMB circulars.

(4) We will review the data filed in the quarterly reports to determine if they meet these standards. In addition, we will use audits and reviews to verify the accuracy of the data filed by the Tribal TANF grantee.

(c) Tribal TANF grantees must maintain records to adequately support any report, in accordance with 45 CFR part 92 and all relevant OMB circulars.

(d) If we find reports so significantly incomplete or inaccurate that we seriously question whether the Tribe has met its participation rate, we may apply the penalty under § 286.195(a)(3).

§ 286.210 What is the penalty for a Tribe’s failure to repay a Federal loan?

(a) If a Tribe fails to repay the amount of principal and interest due at any point under a loan agreement:

(1) The entire outstanding loan balance, plus all accumulated interest, becomes due and payable immediately; and

(2) We will reduce the TFAG payable for the immediately succeeding fiscal year quarter by the outstanding loan amount plus interest.

(b) Neither the reasonable cause provisions at § 286.225 nor the corrective compliance plan provisions at § 286.230 apply when a Tribe fails to repay a Federal loan.

§ 286.215 When are the TANF penalty provisions applicable?

(a) A Tribe may be subject to penalties, as described in § 286.195(a)(1), § 286.195(a)(2) and § 286.195(a)(4), for conduct occurring on and after the first day of implementation of the Tribe’s TANF program.

(b) A Tribe may be subject to penalties, as described in § 286.195(a)(3), for conduct occurring on and after the date that is six months after the Tribe begins operating the TANF program.

(c) We will not apply the regulations retroactively. We will judge Tribal actions that occurred prior to the effective date of these rules and expenditures of funds received prior to the effective date only against a reasonable interpretation of the statutory provisions in title IV-A of the Act.

(1) To the extent that a Tribe's failure to meet the requirements of the penalty provisions is attributable to the absence of Federal rules or guidance, Tribes may qualify for reasonable cause, as discussed in § 286.225.

(2) [Reserved]

§ 286.220 What happens if a Tribe fails to meet TANF requirements?

(a) If we determine that a Tribe is subject to a penalty, we will notify the Tribe in writing. This notice will:

(1) Specify what penalty provision(s) are in issue;

(2) Specify the amount of the penalty;

(3) Specify the reason for our determination;

(4) Explain how and when the Tribe may submit a reasonable cause justification under § 286.225 and/or a corrective compliance plan under § 286.230(d) for those penalties for which reasonable cause and/or corrective compliance plan apply; and

(5) Invite the Tribe to present its arguments if it believes that the data or method we used were in error or were insufficient, or that the Tribe's actions, in the absence of Federal regulations, were based on a reasonable interpretation of the statute.

(b) Within 60 days of receipt of our written notification, the Tribe may submit a written response to us that:

(1) Demonstrates that our determination is incorrect because our data or the method we used in determining the penalty was in error or was insufficient, or that the Tribe acted prior to June 19, 2000, on a reasonable interpretation of the statute;

(2) Demonstrates that the Tribe had reasonable cause for failing to meet the requirement(s); and/or

(3) Provides a corrective compliance plan as discussed in § 286.230.

(c) If we find that the Tribe was correct and that a penalty was improperly determined, or find that a Tribe had

reasonable cause for failing to meet a requirement, we will not impose the related penalty and so notify the Tribe in writing within two weeks of such a determination.

(d) If we determine that the Tribe has not demonstrated that our original determination was incorrect or that it had reasonable cause, we will notify the Tribe of our decision in writing.

(e) If we request additional information from a Tribe, it must provide the information within thirty days of the date of our request.

§ 286.225 How may a Tribe establish reasonable cause for failing to meet a requirement that is subject to application of a penalty?

(a) We will not impose a penalty against a Tribe if it is determined that the Tribe had reasonable cause for failure to meet the requirements listed at § 286.195(a)(1), § 286.195(a)(2), or § 286.195(a)(3). The general factors a Tribe may use to claim reasonable cause include, but are not limited to, the following:

(1) Natural disasters, extreme weather conditions, and other calamities (*e.g.*, hurricanes, earthquakes, fire, and economic disasters) whose disruptive impact was so significant that the Tribe failed to meet a requirement.

(2) Formally issued Federal guidance which provided incorrect information resulting in the Tribe's failure or prior to the effective date of these regulations, guidance that was issued after a Tribe implemented the requirements of the Act based on a different, but reasonable, interpretation of the Act.

(3) Isolated, non-recurring problems of minimal impact that are not indicative of a systemic problem.

(4) Significant increases in the unemployment rate in the TFAG service area and changes in the TFAG caseload size during the fiscal year being reported.

(b) We will grant reasonable cause to a Tribe that:

(1) Clearly demonstrates that its failure to submit complete, accurate, and timely data, as required at § 286.245, for one or both of the first two quarters of FY 2000, is attributable, in significant